THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.67 of 1998

Dated: 05.4.2007

Between:

P.Ananta Reddy
And others

… Petitioners

AND

A.P.State Seeds Development Corpn Ltd.,
Rep by Managing Director,

And another.

… Respondents

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.67 of 1998

ORDER:

The petitioners who admittedly worked in the first respondent – Corporation as daily wage workers at Miryalaguda up to 1.8.1995 filed the present writ petition for declaration that the action of the respondents in retrenching them from service as illegal, arbitrary and contrary to the Industrial Disputes Act 1947 and for consequential direction to the respondents to take back the petitioners into service.

From the averments contained in the affidavit filed in support of the writ petition it is clear that the petitioners who were engaged as daily wage workers were discontinued on 11.8.1995. It is an admitted fact that they have not put in five years of service as daily wage workers as on the date of their retrenchment. The petitioners' services were terminated on the ground that they have not put in five years of service as on 25.11.1993 as required under G.O.Ms.No.212 dated 22.4.1994. Questioning the said order of termination the petitioners filed W.P.No.20697 of 1995 in this Court and the said writ petition was disposed of with a direction to the respondents to give individual notices to the petitioners and pass orders afresh. Consequent thereto, individual notices were given

to the petitioners and fresh orders were passed in November 1997 which are assailed in the present writ petition. In the impugned order, following reasons were given for termination of the petitioners' services:

1. He/She has not worked for a period of 5 years on 25.11.1993.
2. He/She does not possess the qualification prescribed for the post Attender/Watchman as per the recruitment rules of the Corporation in force as on the date for which his/her qualifications have been considered.
3. He/She was not within the age limit as on the date of appointment on daily wage basis.
4. There are no vacancies in the category of Attender/Watchman for which his/her case has been considered.

A counter affidavit has been filed by the Managing Director of A.P.State Seeds Development Corporation Limited.

Heard Sri Chakravarthy, learned counsel appearing for the petitioners. None appeared for the respondents.

In para-3 of the affidavit filed in support of the writ petition it is specifically averred that there is enough work load in the office of the respondents and that the respondents are engaging workman on daily wages. It is also specifically mentioned therein that the persons who were engaged much later than the petitioners and juniors to them are continued in services while the petitioners were retrenched. The names of nine persons who were said to be the juniors are mentioned in Annexure-A. The counter affidavit is conspicuously silent with respect to this allegation. The whole emphasis laid in the counter affidavit was that since the petitioners failed to satisfy the conditions contained in G.O.Ms.212 dated

22.4.1994 their services were terminated. A perusal of the impugned order shows that it was passed in a wholly mechanical manner. In para-3 of the impugned order it is stated that the case of the petitioners was reconsidered under G.O.Ms.No.212 and that it is decided that he/she is not entitled to have his/her service regularized for the reasons which are already extracted hereinabove.

It is not the case of the petitioners that their services shall be regularized. All that they wanted was to continue their services so long as there is work need. Nowhere in the counter affidavit the respondents claimed that there is paucity of work and that the petitioners' services were not required. As the respondents failed to deny the allegations that the persons who are shown in Annexure-A are either juniors to the petitioners or that they are continued while the petitioners' services were terminated, it is legitimate to infer that the respondents while continuing the petitioners' juniors, have arbitrarily discontinued all the petitioners. The respondents failed to consider the request of the petitioners for their continuance. The petitioners' services are discontinued on an irrelevant ground, namely, that they do not satisfy the conditions stipulated in G.O.Ms.No.212 for regularization. The said conditions are not germane at all for consideration for continuing the petitioners as daily-wage workers. So long as work is available requiring engagement of daily wage workers, there is no reason why the petitioners shall not be continued, more so when the petitioners' juniors, as shown in annexure-A to the affidavit are continued. The action of the

respondent in discontinuing the petitioners' services as daily wage workers is therefore liable to be declared as illegal and arbitrary and consequently the writ petition deserves to be allowed.

In the result the writ petition is allowed and the respondents are directed to take the petitioners back as daily wage workers within one week from the date of receipt of a copy of this order and continue them so long as there is work need.

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C.V.NAGARJUNA REDDY,J

Dt :05.4.2007
Mdaa.